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May 22, 2003

Corbin Davis, Clerk
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

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MAY 27 2003

OFFICE OF
THE CHIEF JUSTICE

Re: Proposed amendment of MCR 7.204(H)

Dear Mr. Davis:

In the May, 2003, Michigan Bar Journal, several proposed court rules were published and comments were solicited.

I would like to register my very strong objection to the proposed amendment of MCR 7.204(H) which shortens the time for filing docketing statements in the Court of Appeals in civil appeals. The principal change in the docketing statement is to reduce from the present 28 days to 14 days the time in which the appellant must file his docketing statement.

In my opinion, this would be very ill-advised because it is insufficient time to give appellant the necessary opportunity to familiarize himself or herself with the portions of the trial record necessary for the filing of a docketing statement.

Very often in civil cases, I find that people will retain me to represent them on appeal as appellant. In many of those cases I had nothing to do with the trial, have no knowledge of the testimony given, have never seen the exhibits, the transcripts, nor any of the record on appeal. The best I have to go on is what the client tells me and what the trial lawyer tells me. This is an insufficient data base for formulating a meaningful docketing statement. It simply cannot be done in 14 days – particularly in those cases in which counsel for the appellant is new to the case.

If anything, in my opinion, the time for filing a docketing statement should be extended, not reduced.

I note that the staff comment to the proposed amendment reads as follows:

The Court of Appeals anticipates that the shortened time period will enable its settlement office to evaluate cases earlier in the appeal

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CORBIN DAVIS
CLERK SUPREME COURT

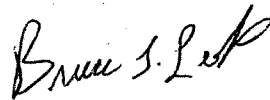
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process, thus saving time and money for both the Court and the parties.

I could not disagree more. Among other things, the docketing statement asks for a concise statement of the issues to be presented, asks for certain specific factual recitations, etc. If one is counsel for the appellant and new to the case, one will not even receive the transcript and the papers within 14 days of the date of filing the Claim of Appeal. This is simply an insufficient amount of time to extend to a lawyer to file this important document. While I recognize that the contents of the record on appeal on not binding on the party, if they are to have any meaning whatsoever, they ought to be based on the record. This has been proved to be impossible when we had 28 days to draft a docketing statement; to shorten that to 14 days is to worsen, not better, a serious problem.

I hope that the Court will not adopt the proposed amendment to 7.204(H).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Bruce T. Leitman", with a stylized flourish at the end.

Bruce T. Leitman

BTL/jd